



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

## PUBLIC ACCESS COUNSELOR

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August 15, 2011

Kelly L. Khuri  
4819 Salem Noble Road  
Jeffersonville, Indiana 47130

*Re: Formal Complaints 11-FC-179; Alleged Violation of the Open Door Law  
by the Clark County Commissioners*

Dear Ms. Khuri:

This advisory opinion is in response to your formal complaint alleging the Clark County Commissioners ("Commissioner") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* The Commissioner's response is enclosed for your reference.

### BACKGROUND

In your complaint you allege that the Commissioners failed to provide proper notice for a July 27, 2011 special meeting concerning Ordinance 18-2011 that was held in the Commissioner's Chambers. On July 26, 2011, you visited the Commissioner's Office at the County Government Building. At that time, you were unable to locate the public notice of the July 27, 2011 special meeting. You inquired with Commissioner employee, Margie Jenkins, regarding the issue. You state that Ms. Jenkins provided that she was not aware of a notice being posted for the special meeting and would make an inquiry regarding the issue. Ms. Jenkins directed you to speak with Commissioner Attorney Greg Fifer about the issue and you informed Mr. Fifer about the lack of public notice for the July 27, 2011 special meeting. You thereafter checked other areas of the building for a notice regarding the special meeting and your efforts proved unsuccessful.

The following day, July 27, 2011, upon entering the County Government Building you immediately observed that notice of the special meeting had now been posted. You inquired with Kristi James, Commissioner Administrative Assistant, who informed you that notice had not been posted until July 27, 2011.

In response to your complaint,

## ANALYSIS

It is the intent of the ODL that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See* I.C. § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. *See* I.C. § 5-14-1.5-3(a).

Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. § 5-14-1.5-5(a). In addition to providing notice to any news media who by January 1 of the year have requested notice, the agency must post notice at the principal office of the agency or, if there is no office, at the building where the meeting will be held. I.C. § 5-14-1.5-5(b). Notice has not been given in accordance with Section 5 of the ODL if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting. I.C. §5-14-1.5-5(h).

## CONCLUSION

For the foregoing reasons, it is my opinion that the Council violated the ODL by providing insufficient notice of an executive session.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is stylized with a large initial "J" and a cursive "Hoage".

Joseph B. Hoage  
Public Access Counselor

cc: Mark D. Clark